

## **REMARKS**

### **Overview**

The present application includes claims 1-38. With this Amendment, Applicant has amended the claims as indicated in the Listing of Claims. Claims 1-38 remain pending in this application.

### **Claim Rejections under 35 U.S.C. §103**

The Examiner rejected claims 1-38 under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 5,848,397 to Marsh et al (“Marsh”). The rejected claims include independent claims 1, 12, 21, 27, 32 and 36 from which the remainder of the claims depend.

In the Response to Arguments section of the Office Action, the Examiner “noted that the features upon which applicant relies (i.e., ‘claim 1 provides a tailored advertisement to each targeted individual . . .’) are not recited in the rejected claim(s).” (Office Action, page 9, Section 4). With this amendment, Applicant has amended the independent claims to more clearly recite this feature. Thus, Applicant respectfully requests the Examiner to review the claims in view of the clarifying amendments, and find the amended claims allowable over Marsh.

Marsh is directed to a METHOD AND APPARATUS FOR SCHEDULING THE PRESENTATION OF MESSAGES TO COMPUTER USERS. Marsh discloses a method and apparatus for scheduling the presentation of a continuously-changing display to computer users, and is particularly well suited for use in an advertisement-supported e-mail service. Referring to Fig. 1, an exemplary e-mail system 100 includes a client system 101 and a server system 104 which communicate with one another over a network 103. Referring to Fig. 4, the advertisements include banner ads 601 and showcase ads 1001.

The system of Marsh selects the advertisements to present to a user based on demographic information about the user and the advertisements may include sound (see for example Marsh, col. 15, lines 20-53). However, the advertisements presented by Marsh are the same regardless of which user receives the advertisement. As such, there is no tailoring of the advertisement itself, but simply a process for selecting who receives the advertisement. Thus, the system of Marsh simply selects from a set of generic advertisements and sends one of the generic advertisements to the selected user. The Marsh system does not tailor the advertisement itself as recited in the claims of the present application.

Amended claim 1 recites “present the targeted individual with a resource including an



audio component tailored specifically for the targeted individual. . . , the audio component including at least one generic portion and at least one tailored portion, . . . (emphasis added)“ Similar limitations relating to a resource “tailored specifically for the targeted individual” including both a generic portion and a tailored portion are recited in the remaining independent claims 12, 21, 27, 32, and 36. For one example shown in the present application and not for limitation, Applicant refers Examiner to Fig. 12 which shows a message 430 that includes generic portions 432, 434, 436, 438 and 440, as well as tailored portions 442, 444, 446, 448, 450, 452. The generic and tailored portions are combined to present a message tailored specifically for the targeted individual.

Applicant submits that Marsh does not disclose, teach or suggest the marketing system for communicating with an audience including a targeted individual through a communication system as recited in claim 1 comprising, among other things, “a processor . . . a database accessible by the processor and including data related to the targeted individual and an identifier; . . . the processor adapted to present the targeted individual with a resource including an audio component tailored specifically for the targeted individual in response to the presentment of the identifier . . . the audio component including at least one generic portion and at least one tailored portion.” Unlike the system in Marsh wherein everyone who receives an advertisement receives one of a set of generic advertisements, the system recited in claim 1 provides an advertisement tailored specifically for each targeted individual, the tailored advertisement including at least one tailored audio component. The tailoring of the advertisement provides more effective marketing than simply sending the same generic advertisement to a selected group of people.

For at least these reasons, Applicant submits that the marketing system as recited in independent claim 1 is patentable over Marsh. Further, Applicant submits that claims 2-11 which depend from claim 1 are in condition for allowance at least for the reasons given above in connection with claim 1.

Applicant submits that Marsh does not disclose, teach or suggest the marketing system for communicating with a targeted individual as recited in claim 12 comprising, “the processor adapted to selectively present the targeted individual with a second media tailored specifically for the targeted individual . . . including an audio message having at least one generic portion and at least one tailored portion.” Similar to claim 1, the system of claim 12 provides an advertisement tailored specifically for each targeted individual, the tailored advertisement including at least one tailored audio message.



For at least these reasons, Applicant submits that the marketing system as recited in independent claim 12 is patentable over Marsh. Further, Applicant submits that claims 13-20 which depend from claim 12 are in condition for allowance at least for the reasons given above in connection with claim 12.

Applicant submits that Marsh does not disclose, teach or suggest the method for marketing to a targeted individual as recited in claim 21 comprising the step of, “providing the targeted individual with a second media tailored specifically for the targeted individual in response to receiving the identifier from the targeted individual, the second media including an audio message having at least one generic portion and at least one tailored portion.” Similar to claim 1, the method of claim 21 provides an advertisement tailored specifically for each targeted individual, the tailored advertisement including at least one tailored audio message.

For at least these reasons, Applicant submits that the marketing method as recited in independent claim 21 is patentable over Marsh. Further, Applicant submits that claims 22-26 which depend from claim 21 are in condition for allowance at least for the reasons given above in connection with claim 21.

Applicant submits that Marsh does not disclose, teach or suggest the marketing system for communicating with a targeted individual as recited in claim 27 comprising, “the processor adapted to present the targeted individual with a media tailored specifically for the targeted individual, the media including a visual component and an audio component, the audio component having at least one generic portion . . . and at least one tailored portion . . . .” Similar to claim 1, the system of claim 27 provides an advertisement tailored specifically for each targeted individual, the tailored advertisement including at least one tailored audio component.

For at least these reasons, Applicant submits that the marketing system as recited in independent claim 27 is patentable over Marsh. Further, Applicant submits that claims 28-31 which depend from claim 27 are in condition for allowance at least for the reasons given above in connection with claim 27.

Applicant submits that Marsh does not disclose, teach or suggest the marketing system for communicating with a targeted individual as recited in claim 32 comprising, “the processor adapted to present the first targeted individual with a media tailored specifically for the first targeted individual, the media including an audio component, the audio component having an at least one generic portion . . . and an at least one tailored portion, . . . ; the processor further adapted to present the second targeted individual with a media tailored



specifically for the second targeted individual, the media including an audio component, the audio component having an at least one generic portion . . . and an at least one tailored portion . . .” Similar to claim 1, the system of claim 32 provides an advertisement tailored specifically for each targeted individual, each tailored advertisement including at least one tailored audio component.

For at least these reasons, Applicant submits that the marketing system as recited in independent claim 32 is patentable over Marsh. Further, Applicant submits that claims 33-35 which depend from claim 32 are in condition for allowance at least for the reasons given above in connection with claim 32.

Applicant submits that Marsh does not disclose, teach or suggest the method for marketing to a targeted individual as recited in claim 36 comprising the step of, “providing the targeted individual with a resource tailored specifically for the targeted individual. . ., the resource including a visual component and an audio message having at least one generic portion . . . and at least one tailored portion . . .” Similar to claim 1, the method of claim 36 provides an advertisement tailored specifically for each targeted individual, the tailored advertisement including at least one tailored audio component.

For at least these reasons, Applicant submits that the marketing method as recited in independent claim 36 is patentable over Marsh. Further, Applicant submits that claims 37 and 38 which depend from claim 36 are in condition for allowance at least for the reasons given above in connection with claim 36.



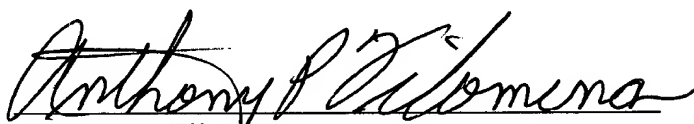
**Final Remarks**

Claims 1-38 are believed to be in condition for allowance. Such allowance is respectfully requested.

If necessary, please consider this a Petition for Extension of Time to affect a timely response. Please charge any additional fees or credits to the account of Bose McKinney & Evans, LLP Deposit Account No. 02-3223. In the event that there are any questions related to these amendments or to the application in general, the undersigned would appreciate the opportunity to address those questions directly in a telephone interview to expedite the prosecution of this application for all concerned.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP

A handwritten signature in black ink, reading "Anthony P. Filomena". The signature is fluid and cursive, with a horizontal line drawn across the middle of the name.

Anthony P. Filomena

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